

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Charles Gary Singletary, III,)
Plaintiff,) C.A. No. 9:22-04362-HMH-MHC
vs.)
Warden Jackson,)
Defendant.)

OPINION & ORDER

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Molly H. Cherry made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina.¹ Charles Gary Singletary, III (“Singletary”) is a pro se state prisoner asserting, pursuant to 42 U.S.C. § 1983, that the Defendant violated his Eighth Amendment rights. In her Report and Recommendation filed on February 24, 2023, Magistrate Judge Cherry recommends dismissing this action without prejudice, without leave to amend, and without issuance and service of process. (R&R, generally, ECF No. 6.)

Singletary filed undated and unsigned objections to the Report and Recommendation. (Objs., ECF No. 8.) Singletary alleges that he did not receive the Report and Recommendation

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

until March 14, 2023. Therefore, the court will construe Singletary's objections as timely. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that Singletary's objections are non-specific, unrelated to the dispositive portions of the magistrate judge's Report and Recommendation, or merely restate his claims. The magistrate judge recommends dismissal because Singletary fails to state a claim for relief, the requested relief of new trial and release from prison is unavailable in a § 1983 action, and the claims are barred by the applicable statute of limitations. (R&R, generally, ECF No. 6.) In the alternative, the magistrate judge recommends dismissing this case for failure to bring this action into proper form. (Id. 5-6, ECF No. 6.) In his objections, Singletary alleges that he was unaware that he needed to respond and attaches evidence of his appeal in a separate case, C.A. No. 9:21-3055. (Objs. 4, ECF No. 8.) The appeal in 9:21-3055 is wholly unrelated to the instant case. After a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge Cherry's Report and Recommendation and incorporates it herein.

It is therefore

ORDERED that this action is dismissed without prejudice, without leave to amend, and without issuance and service of process.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
March 28, 2023

NOTICE OF RIGHT TO APPEAL

The Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.